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**AUG 29 1994**

HOWARD HANSON  
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7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF MARIN

10 CHURCH OF SCIENTOLOGY INTERNATIONAL, )  
a California not-for-profit )  
11 religious corporation, )  
12 Plaintiff, )  
13 vs. )

No. 157 680

**EVIDENCE IN SUPPORT OF  
GERALD ARMSTRONG'S  
OPPOSITION TO CSI'S  
MOTION FOR SUMMARY  
JUDGMENT**

14 GERALD ARMSTRONG; MICHAEL WALTON; )  
THE GERALD ARMSTRONG CORPORATION )  
15 a California for-profit )  
corporation; DOES 1 through 100, )  
16 inclusive, )  
17 Defendants. )

Date: September 9, 1994  
Time: 9:00 a.m.  
Dept: One  
Trial Date: 9/29/94

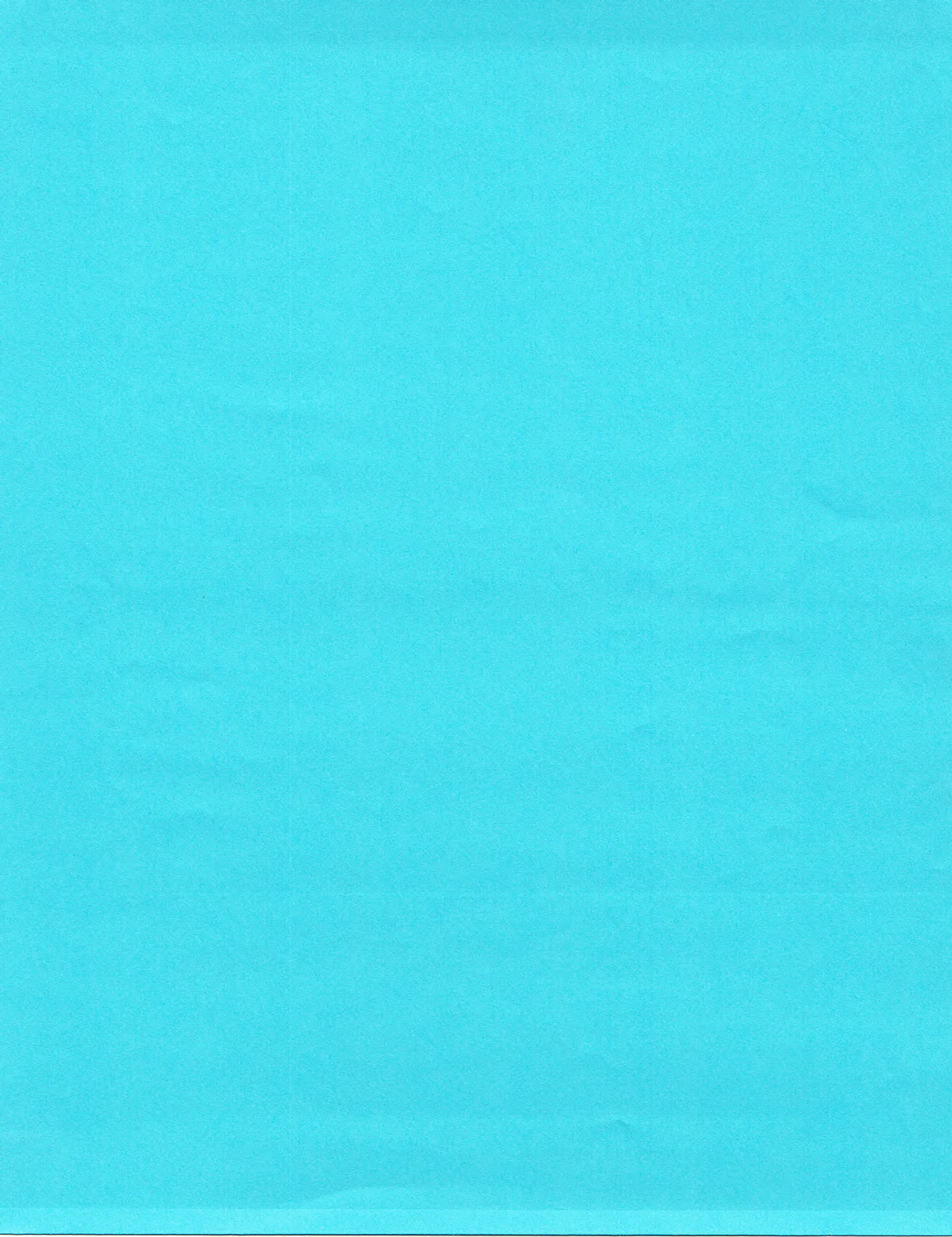
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HUBBARD COMMUNICATIONS OFFICE  
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HCO POLICY LETTER OF 21 NOVEMBER 1972  
Issue 1

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All PR Packs

PR Series 18

HOW TO HANDLE BLACK PROPAGANDA

RUMORS AND WHISPERING  
CAMPAIGNS

"Black propaganda" (Black = bad or derogatory, propaganda = pushing out statements or ideas) is the term used to destroy reputation or public belief in persons, companies or nations.

It is a common tool of agencies who are seeking to destroy real or fancied enemies or seek dominance in some field.

The technique seeks to bring a reputation so low that the person, company or nation is denied any rights whatever by "general agreement". It is then possible to destroy the person, company or nation with a minor attack if the Black Propaganda itself has not already accomplished this.

Vicious and lying gossip by old women was the earlier form of this tactic and was so bad that some areas put them in public stocks (neck yokes) or drove them out of town.

In modern times there is no such check on Black Propaganda. Difficulties and costs of libel and slander suits, abuse of press privilege, lay anyone open to such a campaign.

All one needs is an enemy. And there are few men in history who have been without enemies.

There are random individuals in the society who do not understand very much. This is expressed as a sort of malicious glee about things. Such pass on slanderous rumors very easily. In an illiterate society such people abound. Since they cannot read, the bulk of knowledge is denied to them. Since they do not know very many words much of what is said to them is not understood.

This is not isolated to the illiterate only.

What they do not understand they substitute for with imaginary things.

Thus such persons not only listen to slander but also corrupt and twist even it.

Thus a rumor can go through a society that has no basis in truth.

When numbers of such rumors exist and are persistent, one suspects a "Whispering Campaign". This is not because people whisper these things but because like an evil wind it *seems* to have no source.

Black Propaganda makes use of such a willingness to pass on and amplify falsehoods.

Much Black Propaganda is of course more bold and appears blatantly in irresponsible (or covertly controlled) newspapers and radio and television.

But even after a bad press story has appeared or a bad radio or TV broadcast has been given, the "Whispering Campaign" is counted upon by Black Propagandists to carry the slander through the society.

Thus any person, any being, is at risk.

No person, company or nation has totally clean hands. That is left to the Saints. In childhood one stole a few apples, broke a window or two, dented a fender, went joy riding in a "borrowed" vehicle or took pennies or candy bars that weren't his own.

Childhood is quite lawless and the teenage period is often a revolt against the

DEFENDANT'S  
EXHIBIT

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closer and closer fitting straightjacket of "proper social conduct". One marries the wrong spouse or goes astray with another in some incautious moment, or commits various large and small sins of which society disapproves.

Any of these things tend to make one vulnerable to attack, upon his past or repute.

A person comes to fear bad things being said about him. In the face of a Whispering Campaign, real or imagined, one tends to withdraw, tends to become less active and reach less.

This is equally true of companies and even nations.

Thus, unless one knows how to handle such an attack, one can in fact be made quite miserable and ill.

### THE ATTACKER

The world is full of madmen.

The basic characteristic of extreme madness is perpetual attack, attacks on anything, attacks on persons or things which contain no menace.

Extreme, not petty, crime is at the root of such an impulse.

The attacker has an evil purpose in life. He is a thing of death, not life. And his harvest is a death harvest.

Such a person feels he cannot be safe unless everything else is dead.

His evil purpose takes many forms and expressions. The end product is the same—death.

Where an attacker has gone too far he is himself then attacked. Long bitter quarrels and national wars are alike the to and fro exchange of violence.

Where an attacker lacks the physical means of destroying others and where his own purpose would fail if disclosed, the attacks become covert.

He uses word of mouth, press media, any communication channel to spit his venom. He hides himself as the source, he makes the verbal attack seem logical or real or proven.

He counts on the utterances being picked up or distorted and passed on by the more base people in the society.

This is Black Propaganda. It is intended to reduce a real or imagined enemy, hurt his income and deny him friends and support.

Companies or associations do this to competitors. The American Medical Association maintains its multi-billion dollar monopoly over sickness by continuing a long, well financed Black Propaganda campaign against anyone it *thinks* might threaten their income. The head of their "Department of Investigation" (as they call their Black Propaganda department) once said they just kept it up and kept it up against any rival and one day WHAM! They use press releases, their own members, paid ads, displays, government connections and speakers, any channel, to release endless streams of *imaginary* tales against any *imaginary* rival. While this does bring them government support it has brought them deep hatred not only from rivals but the public at large.

They get back what they put out. They were once wealthy. They are no longer. Their members dislike them and increasingly doctors belong only to state medical societies, not the AMA. The individual doctor most often has good public relations. His main society benefits from this and betrays it. One day, no AMA. WHAM!

So Black Propaganda is not something one lightly instigates. For it recoils on the person who uses it.

Let us see how it recoils.

Too much venom put out stains one with venom.

Too much Black Propaganda gets attacks in return.

Black Propaganda is essentially a fabric of lies. The AMA simply imagines stories to put out or have put out.



Sooner or later such stories are found not to be true. ONE false story can destroy the credit of the teller. Now who listens?

Thus a Black Propaganda Campaign is vulnerable. The attacker sooner or later is attacked—often by many.

But those who have to counter such a campaign need the technology of how it is handled.

#### ANY NEWS

There is a natural law at work that unfortunately favors Black Propaganda.  
WHERE THERE IS NO DATA AVAILABLE PEOPLE WILL INVENT IT.

This is the Law of the Omitted Data.

A vacuum tends to fill itself. Old philosophers said that "nature abhors a vacuum". Actually the surrounding pressure flows into an area of no pressure.

It is this way with a person, company or nation.

Hit by lies the person tends to withdraw. This already tends to pull things in.

The person does not then wish to put out data. He becomes to some degree a mystery.

To fill that mystery people will invent data.

This is true of persons, companies or nations.

This is where *public relations is a necessity*.

Essentially Public Relations is the art of making good works well known.

It is a fatal error to think good works speak for themselves. They do not. They must be publicized.

Essentially this is what public relations is. And this is *why* it is—to fill that vacuum of omitted data.

In the midst of a Black Propaganda Campaign one is denied normal communication channels. The press media along which the campaign is being conducted will *not* run favorable comment. One is mad if he thinks it will as it is serving other masters that mean to destroy the repute of the Target.

"Authoritative" utterances push plain truth out of sight.

Thus public relations people have to be very expert in their technology when they confront Black Propaganda.

#### THE TECH

When one is not fighting a battle against Black Propaganda, public relations is easy.

One hires a reporter who gets to work thinking up ideas and turning out releases. That's why reporters are often thought of as Public Relations people which they are not.

In the face of a Black Propaganda Campaign, such releases are twisted, refused and that is the end of it.

There is far more to the art than this.

These are some of the rules that apply.

1. Fill the vacuum of omitted data with factual data.
2. Prove all false utterances heard are lies.
3. Discredit every rumor encountered.
4. Handle the interest level with any utterance.
5. Carefully study out the scene until the exact source is located.



6. Use the knowledge of source to impede or destroy the source of Black Propaganda by non-criminal means.
7. Continue to fill the vacuum of no data with good data using any channels available.

Each one of these points could well take a book. But understanding them and using one's initiative one can fill in a lot of the tech himself.

The variations of each one are endless.

#### APPLICATION

##### 1. Fill the Vacuum.

First of all, cease to withdraw. It is proven conclusively that in public relations handling of Black Propaganda, only outflow pays off. Saying nothing may be noble in a character but it is fatal in public relations. Yet even "experts" advise it (when they are doing their clients in).

Blunt denial is crude and can be used against one as a sort of confirmation.

You don't have to announce or spread a flap and never should. PR men often *make* the flap.

But don't interpret this as "silence is necessary". Get in a safe place and speak up.

Use any channel to speak up. But don't seek channels that will corrupt what you say in repeating it.

Don't stay on the same subject that you are being attacked on.

An example of speaking up without denying and thus confirming might be:

STATEMENT: "I read your company went broke last month."

REBUTTAL: "My God. You're telling me! If we hadn't got out of that contract we really would have gone broke. There was a hell of a row in the board room. But McLinty won. Scotch to the core. He said, 'I won't sign it!' Like to have tore the president's head off. Hell of a row. Seems like we got 80 million buried somewhere and McLinty is in charge of it and he won't *move an inch* on it."

The Interrogator's conclusion is you're not broke. He's got data. The vacuum is filled with a story of board rows and 80 million mysterious reserves.

##### 2. Disprove False Data.

The technique of proving utterances false is called "DEAD AGENTING". It's in the first book of Chinese espionage. When the enemy agent gives false data, those who believed him but now find it false kill him—or at least cease to believe him.

So the PR slang for it is "Dead Agenting".

This consists of disproving utterly the false statement with documents or demonstration or display.

One has to have a kit (a collection of documents) or the ability to demonstrate or something to display.

STATEMENT: "I've been told you are in trouble with Income Tax people."

REBUTTAL: "Here's a document of fully paid taxes and a letter of commendation from the tax authorities." Displays some.

Result? Whoever told him that is now dead with him as an accurate informer.

The *best* way to dead agent is when the person makes some disprovable statement, find *WHO* to fix his mind on it and then produce the rebuttal.

STATEMENT: "I hear you aren't married to the man you're living with."

REBUTTAL: "*WHO* told you that?"

STATER: "I forget."

REBUTTER: "Well you remember and I'll show you some proof."



STATER: "Well, it was a man. . . ."

REBUTTER: "WHO?"

STATER: "Joe Schmo."

REBUTTER: "Okay. Here's my marriage certificate. Who's the Joe Schmo nut anyway?"

Now it's Joe Schmo who's the mystery. How come he lies? What's in it for him?

When one hasn't got the document but can get it one can say, "You tell me the name of whoever said that and next time I see you I'll show you something *very* interesting about it."

And be sure to get the document and see him again.

Dead Agenting has a billion variations. "It won't fly." Fly it. "Place is empty." Show him it's full.

The subject matter of Dead Agenting is PROOF in whatever form.

You only challenge statements you *can* prove are false and in any conversation let the rest slide.

EVERY FRIEND, EVERY OPINION LEADER, EVERY STAFF MEMBER YOU HAVE SHOULD BE SUPPLIED WITH A DEAD AGENT PACK CONTAINING PROOFS AGAINST COMMON RUMORS (AND BROCHURES AND COACHING TO FILL THE VACUUM).

### 3. Disprove Every Rumor.

Proving negatives is almost impossible. "How do I know you aren't a CIA man?" Well, how can one prove that? One can't whip out a KGB badge as that would be just as bad. No one ever wrote a document "Bill Till is not a member of the CIA." Useless. It is a denial. Who'd believe it?

Sometimes "You don't" works.

But the right answer to a negative (no proof) is a "fill the vacuum".

STATEMENT: "How do I know you're not a CIA man?"

REBUTTAL: "Christ, please don't insult me! The CIA tried to hire me once. Said they'd shoot me if I didn't join up. Cuba it was. I was a sugar salesman. And Batista was trying to. . . . etc, etc. See this scar on my leg? (Pulls up pants.) Batista cop shot me because he thought I was CIA. So don't bring up painful subjects. (Rubs scar.) (Laugh.)"

But once in a while you *can* prove a negative. Accused of drug smuggling one can show he's a member of the anti-drug league. The counter in a negative proof must be *credible*.

A million million variations exist in Dead Agenting.

The basis of it is NOT to be the thing rumored and to be able to prove it fast.

### 4. Handle the Level.

Handling Interest Level is basically an exercise in the Tone Scale. (See Tone Scale Charts of Human Emotion.)

Agreement occurs at the same emotional tone level as the person making the statement. He buys his facts at that level.

To go half a tone up from his level is to command him within his zone of reality.

STATEMENT: "It's hopeless trying to believe in anyone. I thought you people were all right but now I hear you are all hippies. (In a dull apathy.)"

REBUTTAL: "Oh, oh, oh, who could have told you such a sad lie. (Sob.)"

STATER: "Wouldn't be any use to say."

REBUTTER: "(Sob.) But you've got to say. Oh, I feel so awful."

STATER: "Well he wouldn't care if I told. It's the local minister."

REBUTTER: "(Sob.) (Kleenex.) What an awful thing to say. Just because we found him dead drunk and took him home to sleep it off and he said if we ever told he'd say we're hippies."

STATER: "What a sad story. Oh, it's a bad world. How ungrateful."



You go half a tone up. Give him a story, on the subject or not. Like "(Sob) That's because we lost our instruments. We once were a band and this nightclub owner wouldn't pay us and we had to sleep in the barn (sob). . . ."

Another one.

STATEMENT: "I hear some bad things about you people. (Covert hostility.)"

REBUTTAL: "(Anger) Who would DARE say such things?"

Etc.

And story type can be matched in tone.

STATEMENT: "I hear those people stole some rowboats."

REBUTTAL: "Who said so?"

STATER: "The dock master's son."

REBUTTAL: "Oh, him. Gets things wrong. *Our* rowboat was stolen! With all the gear in it. We were out fishing and. . . . say, you don't suppose HE stole it do you? Did you ever hear of him stealing anything? Has he got a record?"

Well, this dock master's son will now "have a record" in the stater's tales. As *theft* is of interest to him, crime will also be.

#### 5. Carefully Study Out the Scene.

The technology of finding who is shooting is very vast. But the core of it is **FILING**.

All PR is expensive in time or money or both. And nowhere is it more time consuming than in locating the source of a Black Propaganda Campaign.

But, to live at all, one has to engage in this search at some time or other.

One just keeps running down these tales until one locates the source.

There can be more than one *apparent* source and these can be handled. But they will at last lead to the real instigator.

One just keeps locating names and filing them, with dates.

At length one name file is very thick. That's your boy—or association or company or nation.

#### 6. Impede or Destroy.

As you have been dead agenting as you looked, the attacks get handled. The campaign ebbs and flows but actually lessens.

There are thousands of variations on finding the real WHO.

But essentially it is just looking, dead agenting, filing, looking on and on.

You are, in this whole period, *handling*.

Once in a while it happens fast.

Now and then the Black Propagandist packs up and fades away before he is fully spotted. He becomes aware of the counter-action.

The usual action is a counter propaganda campaign *based on truth*.

It is a long-to-find and hard-learned fact that people who engage in Black Propaganda have big bursting crimes to hide.

They do not have *little* crimes. They have BIG ones.

One's own ability to confront evil may be too low to really grasp the Black Propagandist's crimes or believe they exist.

Such people are often **SANCTIMONIOUS** hypocrites. They are usually arrogant and will not parley (have conferences with a foe). They appear so terribly sure they are **RIGHT** that it fairly shakes one's confidence that they could ever do anything wrong.

Thus the Black Propagandist is not detectable as such in many cases. The lofty institution, the lofty society, the glittering country are far, far above such a nasty psychotic trick as a studied, financed, expertly run campaign of vicious lies.

Thus they are believed. Or their servants are believed. And their campaigns can be very effective.



But this makes them hard to suspect or detect. And it makes it hard to get anything bad about *them* believed.

But under all this are *real* crimes. Not stealing apples or pinching pennies as a child. *Real* crimes like extortion, blackmail, embezzlement and mass murder are sitting in their closets. Believe that. For in the course of your counter-attack you may despair of ever finding anything.

But you will find it.

A lofty railroad—but secretly murdering anyone who opposed their land grabs. A minister of high renown—but a secret member of and taking orders from a murder mob. The biggest and “most respected” union leader in the country—but a numbered agent of a foreign intelligence service dedicated to destroying the country’s fuel capacity and defeating its president!

And each of these engaged in and never was suspected of Black Propaganda Campaigns that ruined many lives.

Bad guys tend to get rid of good guys. Sometimes for what they consider good reasons, sometimes for imagined reasons, sometimes because the bad guy just can’t stand a decent bright person.

But there is no real truth in the bad guys always cause their own downfall. It may come, but it may be far too late to save the reputation or even life of the person being attacked by hidden campaigns.

Therefore it is *vital* to handle the matter. One can’t just hope it will all go away. It won’t. It will get disastrous to the degree that it is not handled.

The less handling, the more disastrous.

There is another hard won truth.

**ONLY COUNTER-ATTACK HANDLES.**

The fact is that just going on PRing oneself does not remove the effects of the campaign and all too soon one no longer has communication lines left in order to handle anything since reputation is so destroyed no one will listen and no lines remain.

One has to fill the vacuum of the counter-propagandist’s evil deeds. As these are never exposed to view there is a vacuum there.

Another strange thing is that press *will* print attacks. Maybe this will no longer be true in some enlightened age. But in this era, good attacks or fights between things will get print space.

But press is *very* far from the only channel of communication. Governments do believe the press and think it is public opinion. A newspaper can be a fortress of some Black Propagandist. But a people often believes little it reads.

There are opinion leaders, there are letters, there is word of mouth. These are also channels of communication and really far more powerful than the press.

There is also friendly press. But a friendly-talking reporter is often the most suspect. He was so nice in the interview, so vicious in his article.

Statements one makes can be curved. “She had a birthday party” becomes “The delinquents in her circle gathered yesterday for a sex orgy and pretended to the police it was a birthday party. No one was jailed.”

The brand of Black Propaganda is very easy to see in writing twists.

So it takes time and work to reverse an attack because normal channels have to be reopened and reversed.

It is done by attacks.

But attacks which are not true earn suits. So one must attack only on proven ground.

This requires a lot of hard search.

However, a Black Propagandist often has *many* other enemies. These have sometimes gathered data.

The principles are that when the sub-terminals are located, they are investigated and counter-attacked. Then further investigation reveals closer terminals to the propagandist and these are attacked. In short, one investigates and attacks.



Always be ready to parley—that is, have a conference and settle it. The arrogance of the Black Propagandist often forbids this. And when it does, it means longer and harder work and, if well done, his downfall.

In any event, the attack is a long cycle, a complex cycle and often an expensive cycle. It consists of investigate and attack.

But remember, one *must* attack once he has any idea of the identity of the Black Propagandist or even his sub-terminals.

There is no other way out.

Any other course is death.

7. Continue to Fill the Vacuum.

Continuous good works and effective release of material about one's good works is vital especially in a Black Propaganda war.

One cannot just fight.

You are in effect advertising the other fellow when you expose him repeatedly. This gives you a new sort of vacuum. One becomes known as the fellow or company or nation that attacks \_\_\_\_\_. But who really is this fellow or company or nation?

Pamphlets, brochures, press releases, one's own newspaper and magazine, one's own contacts with opinion leaders, these and many more, must be supplied with A COMPREHENSIBLE IDENTITY OF SELF.

Distributing or using these one publicizes one's own good works.

And one must also *do* good works. One can't just dedicate his life to eradicating the enemy, even when that is tempting.

On the other hand, within the dictates of safety, one cannot hide continuously. One must, through his good works and actions at least, be visible.

So a continual truthful and artful torrent of public relations pieces must occur.

Then one day there is no enemy.

And one's repute is high.

There may be other attacks but now one can handle them as small fires and not as a whole burning forest.

#### WHAT IS BLACK PROPAGANDA?

You can see that Black Propaganda is a covert attack on the reputation of a person, company or nation, using slander and lies in order to weaken or destroy.

Defense presupposes that the target is not that bad.

One does not have to be perfect to withstand such an attack, but it helps.

But even if one *were* perfect it would be no defense. Almost all the saints in history have been subjected to such attacks. And most of them died of it.

The answer is PR TECHNOLOGY SKILLFULLY APPLIED.

To be skillful in anything, one has to know it and be experienced in it and DO it.

As weary a task as it may seem to some, as heartbreaking as it can be, one still has to *fight*. And fight with tools and technology and dedication superior to that of the enemy.

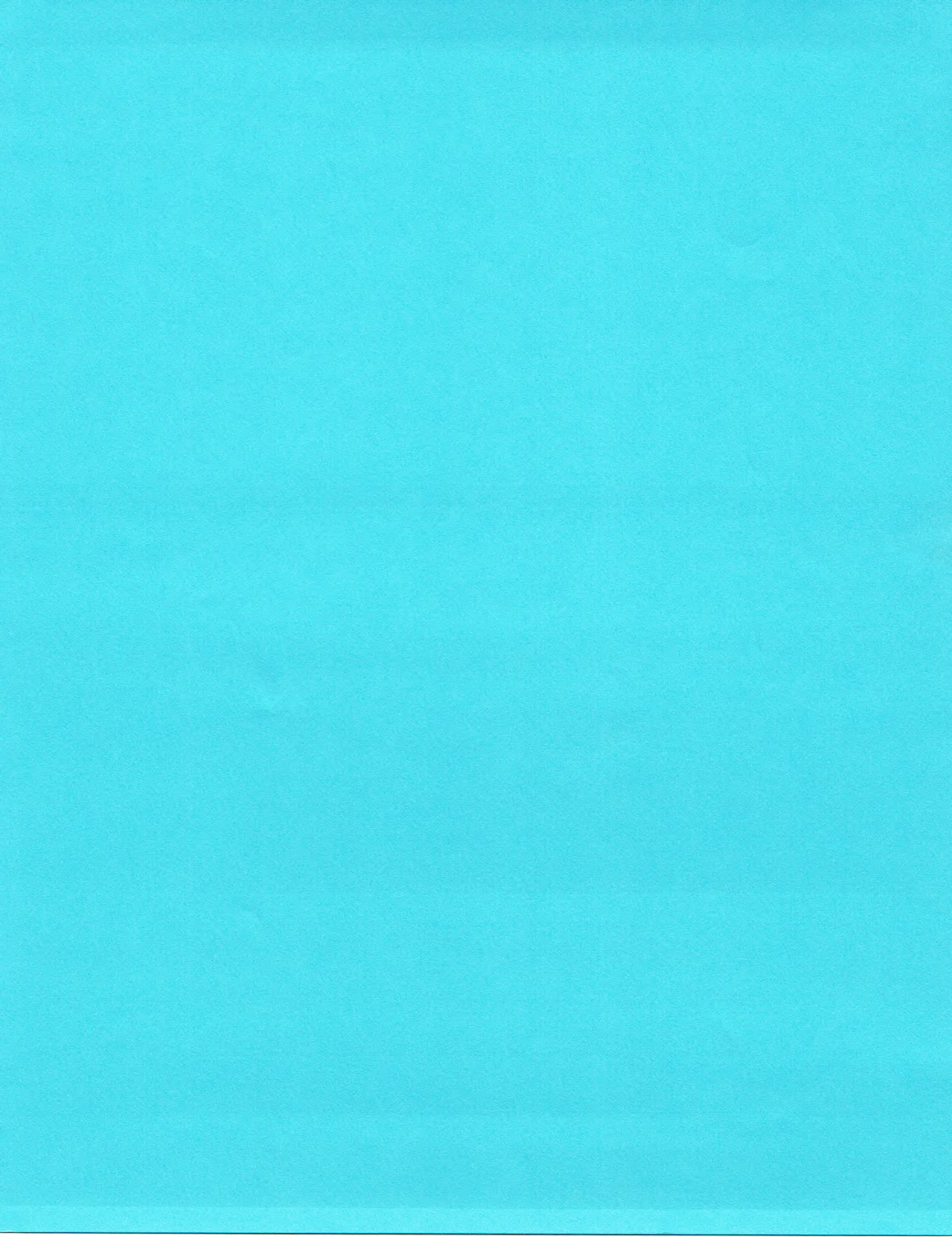
But progressing and getting small gains, small penetrations, small little skirmishes and battles one at length comes up to victory after victory and at last wins the whole war.

One is saved.

L. RON HUBBARD  
Founder

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HUBBARD COMMUNICATIONS OFFICE  
Saint Hill Manor, East Grinstead, Sussex

HCO POLICY LETTER OF 11 MAY 1971  
Issue III

Remimeo

PR Series 7

BLACK PR

About the most involved employment of PR is its covert use in destroying the  
repute of individuals and groups.

More correctly this is technically called BLACK PROPAGANDA.

Basically it is an intelligence technique.

It can be a serious error to cross Intelligence and PR.

These are two different fields. They have two distinctly different technologies.

A PR man must also know something of intelligence technology. Otherwise one  
day he will be left gaping.

Intelligence is intelligence. PR is PR.

When you gather information by intelligence procedures and at once employ it  
for PR, the result is likely to be poor.

It is not that it isn't done. It's that it isn't very effective. Also it is an act of  
desperation.

PR IS OVERT.

INTELLIGENCE IS COVERT.

PR is at its best when it begins and ends overtly.

Intelligence is best when it begins and ends covertly.

PR with an open demand by known authors, a demonstration, a conference is  
normal PR.

Intelligence trembles on the edge of PR when filched data explodes a storm in the  
public. It recoils when the authors are then known.

Black Propaganda is in its technical accuracy, a covert operation where unknown,  
authors publicly effect a derogatory reaction and then remain unknown.

The effect of Black Propaganda is largely wiped out by "Oh, it was the Germans  
who set them up."

So PR enters intelligence in this way: One finds who set up the Black Propaganda  
and explodes that into public view.

This use of PR is almost that of an auditor to the group. One is disclosing hidden  
sources of aberration.

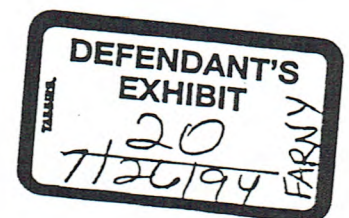
To use intelligence to find where they hid the body and then flip over into wide  
publicity is not very powerful in actual practice. There better be a body there and one  
better tell the police not the public.

If there are no effective police, then one has the problem of police action.  
Exploding it to the public ideally is an effort to make the public a vigilante committee.  
Modern publics seldom rise this high. Educated publics seldom explode to the  
explosion.

A PR man who thinks taking Blitz & Company's crimes to the public is really just  
dreaming hopefully—without foundation. It may or may not hurt Blitz. It might recoil.  
The ability of the public to stand around and look stupidly at a dripping handed  
murderer without doing a thing about it is a symptom of our civilization. They *ought*  
to act. They don't. You can form an opinion amongst them but governing bodies won't  
consult it.

Exposure is not an effective road to *action*. It can be to opinion. It is slow.

Then what is effective?





## INTELLIGENCE

By definition Intelligence is covert. Under cover. If it is kept so all the way it is effective.

When Intelligence surfaces it becomes very ineffective.

Threat and mystery are a lot of the power of intelligence. Publicity blows it.

Take the Red Orchestra, World War II, Stalingrad Campaign. In Berlin Schultz-Boysen and other highly placed Russian agents got the whole German plan of the battle that was to be Stalingrad. Brilliant and covert intelligence. They passed it to the Russians. Brilliant and covert comm. The boss at Centre in Moscow put the ring's names and addresses in a code radio message. The Germans of course broke the code. The Germans rounded them up and messily executed them on meat-hooks. The Germans had no other battle plans but contemplated not attacking Stalingrad that way. This put the whole coup at risk. Then the Germans did use the plans the Russians knew and that was the beginning of the end of WW II.

So TWO exposures threatened the success of this intelligence coup. One was the stupid radio message. The other was the realization the Russians had the battle plans.

Exposure is the basic threat of intelligence.

PR is the willful broadcast of information.

The two don't mix well.

## BLACK PROPAGANDA

Possibly used since the morning pale of history, Black Propaganda was developed by the British and German services in World War I into a fine art.

The word "propaganda" means putting out slanted information to populations.

One propagandizes the enemy population or one's own or neutrals.

In popular interpretation it is a parade of lies or half truths or exaggerations.

PR and advertising technology and mass news media are employed as well as word of mouth and posters.

The trouble with it is that it can often be disproven, discrediting the utterers of it.

It may serve the moment but after a war it leaves a very bad taste.

If one is engaging on a campaign of this nature, its success depends on sticking to the truth and being able to document it.

The entire black propaganda campaign conducted for 21 years against Scientology began to fold up in its 16th year because never at any time did its instigators (a) have any factual adverse data or (b) tell the truth.

The Scientology movement continued if only by heroic means and much sacrifice.

But at last nobody of any note believed the propaganda.

The attackers pulled in on themselves a counter attack based on penetrating horrible documented truth.

It required intelligence-like tactics to discover who it was exactly.

The "dead agent caper" was used to disprove the lies. This consisted of counter-documenting any area where the lies were circulated. The lie "they were \_\_\_\_\_" is countered by a document showing "they were *not*." This causes the source of the lie and any other statements from that source to be discarded.

That real trouble and damage was caused Scientology is not to be discounted. The brilliance of the defense was fantastic. The depth and inroads the propagandists reached was alarming. BUT THEY DIDN'T MAKE IT.

Some Black Propaganda campaigns have won in other areas, not Scientology.

The British got the US into World War I with Black Propaganda, despite a president elected on a peace platform.



Many individuals have been destroyed by Black Propaganda. Wilhelm Reich was by the lies and violence of the FDA.

So Black Propaganda is not a certain result technology. It is costly. It makes fantastic trouble.

Essentially it is NOT a PR campaign. It is a cross between PR and Intelligence.

The technique is:

A hidden source injects lies and derogatory data into public view.

Since it is a hidden source, it requires an intelligence approach to successfully end it.

In the meanwhile the "dead agent caper" is the best tool to counter it.

Legal action can restrain such a campaign but is chancy unless one knows the source or at least has counter-documents. It is risky solely because "law" is unpredictable. However legal action has a definite role in restraining, not in ending such a campaign.

A good policy when faced with a Black Propaganda campaign is to defend as best you can (dead agent and legal restraints) while you find out (intelligence) WHO is doing it. Then, confrontation can occur. Finding and suing false whos can make things much more involved.

Black Propaganda counter-campaigns are inevitable. One engages upon them whether he would or no. These are engaged on while one narrows down the area to an exact WHO. For instance, one knows the whatsits are attacking one. Thus he can counter-attack the whatsits. But *what* are the whatsits exactly? and to whom are they connected? and exactly WHO, an individual always, is keeping it going? These last three have to be answered eventually. And that requires an intelligence type search.

#### THE CROSS

So there is where Intelligence and PR cross.

When PR goes into Black Propaganda (hidden source using lies and defamation to destroy) it has crossed intelligence with publicity. They don't mix well.

The action is risky to engage upon as it may run into an ex-intelligence officer or trained intelligence personnel. It may also run into a dead agent caper or legal restraint.

Anyone engaging in Black Propaganda is either using a wrong way to right a wrong or confessing he can't make it in open competition.

#### PROTEST PR

Outright Protest PR, based on facts is a legitimate method of attempting to right wrongs.

It has to be kept overt. It has to be true.

Protest PR can include demonstrations, hard news stories and any PR mechanism.

Minorities have learned that only Protest PR can get attention from politicians or lofty institutions or negligent or arrogant bosses.

Where Protest PR is felt to be a necessity, *neglect* has already occurred on the issues.

The riots of Panama some years ago were very violent, verging on open war. This followed the negligence of the US in negotiating new treaties, a matter arranged for long ago and arrogantly skipped for several years by the US.

The slaves were freed in 1864 but were either misused or neglected for the next century and finally became a key racial problem full of demonstrations and riots and social unrest. Imperfect redress of wrongs following these then continued the riots. This is probably the biggest PR mess of the last century and a half wobbling this way and that. It is still in the stage of Protest PR, possibly because it went so very, very long unhandled.



The only real recourse these people had was Protest PR. Recently, black Congressmen were refused audience by the President and had to stage a demonstration before it was granted. But Protest PR *did* obtain an audience.

The silliest idea of modern times is conscription. Drafted soldiers might possibly be excused as a levee en masse but not as the habit of government in peace and war just to overcome their lack of ability to make the country worth fighting for and the armed services a stable attractive career. This is all the more foolish since hardly anyone in history ever had any trouble recruiting an army that could pay for one. Even Gibbon remarks on it as an amazingly easy thing to do in any civilization. And that is true today.

So conscription is continued. Facing every young man with an arbitrary military future was a bad thing. Napoleon invented it and he lost.

Protest PR was the answer used to contest it. Met by force and violence, it has not halted.

Somebody will have to give the country a nobler cause more decently prosecuted, will have to better the services and conditions and will have to admit men without demanding their right names or perfect physique and make them immune to recall for civil offenses. Probably that army would fight well. Conscript services are too expensive, too inefficient and too ready to revolt for any sane government to use them. But here this unhandled wrong has to resort to Protest PR.

So Protest PR has its place. It is a fine art. It is the subject of fantastic skill and tech.

It is not good. But it does work and it is used as a last resort when normal hearings and good sense fail.

When money and force lead and opinion leaders are unheeded, when special privilege enters management or government, Protest PR, the strike, the demonstration, is the tool employed.

If that doesn't work, or if it is crushed, subversive actions, general intelligence actions, Black Propaganda and other evils occur.

PR used soon enough can avert much of these consequences.

But there are always two in any fight and the other side may not want to live and so set themselves up.

Intelligent early PR is the best remedy. But it is not always possible.

L. RON HUBBARD  
Founder

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2 HUB LAW OFFICES  
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3 San Anselmo, California 94960-1949  
Telephone: 415.258.0360  
4 Telecopier: 415.456.5318  
5 Attorney for Defendant  
GERALD ARMSTRONG  
6

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF MARIN

10 CHURCH OF SCIENTOLOGY INTERNATIONAL,) No. 157 680  
a California not-for-profit )  
11 religious corporation, )  
12 )  
Plaintiff, )  
13 vs. )  
14 GERALD ARMSTRONG; MICHAEL WALTON; )  
THE GERALD ARMSTRONG CORPORATION )  
15 a California for-profit )  
corporation; DOES 1 through 100, )  
16 inclusive, )  
17 Defendants. )  
18 )  
Date: September 9, 1994  
Time: 9:00 a.m.  
Dept: One  
Trial Date: 9/29/94

DECLARATION OF FORD GREENE  
IN SUPPORT OF ARMSTRONG'S  
OPPOSITION TO CSI'S MOTION  
FOR SUMMARY JUDGMENT

19 FORD GREENE declares:

20 1. I am an attorney licensed to practice law in the Courts  
21 of the State of California and am the attorney of record for  
22 Gerald Armstrong, defendant and cross-complainant herein.

23 2. I am the attorney of record for Gerald Armstrong in the  
24 case of Church of Scientology International v. Armstrong, Los  
25 Angeles Superior Court, case No. BC 053295 ("Armstrong II").

26 3. Attached hereto as Exhibit B is a true and correct copy  
27 a document in that case entitled Notice of Non-Opposition to  
28 Application for an Order Admitting Michael Lee Hertzberg as



1 Counsel Pro Hac Vice dated July 26, 1994.

2 4. I represented non-party witness Margaret T. Singer,  
3 Ph.D. in the case of Scientology v. Steven Fishman and Uwe Geertz,  
4 US District Court for the Central District of California, Case No.  
5 CV 91-6426 HLH(Tx), and am familiar with documents filed in that  
6 case.

7 5. Attached hereto as Exhibit A is a true and correct copy  
8 a document in the Fishman case entitled Non-Parties' Notice of  
9 Compliance Re Discovery dated February 8, 1994.

10 6. Attached hereto as Exhibit C is a true and correct copy  
11 a document in the Fishman case entitled Order Dismissing Action  
12 with Prejudice filed February 22, 1994.

13 Under penalty of perjury pursuant to the laws of the State of  
14 California I hereby declare that the foregoing is true and correct  
15 according to my first-hand knowledge, except those matters stated  
16 to be on information and belief, and as to those matters, I  
17 believe them to be true.

18 Executed on August 27, 1994 at San Anselmo, California.

A handwritten signature in black ink, appearing to be 'Ford Greene', written over a horizontal line. The signature is somewhat stylized and loops around the line.

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mail served 2/8/94  
Received 2/15/94

1 William T. Drescher  
23679 Calabasas Road, Suite 338  
2 Calabasas, California 91302  
(818) 591-0039

3  
4 Attorney for Non-Party Witnesses  
DAVID MISCAVIGE, NORMAN STARKEY,  
MARK RATHBUN, AND GREG WILHERE

5  
6 Michael Lee Hertzberg  
740 Broadway  
New York, New York 10003  
(212) 982-9870

8 Attorney for Non-Party  
DAVID MISCAVIGE

RECEIVED  
FEB 17 1994  
HUB LAW OFFICES

11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14	CHURCH OF SCIENTOLOGY	)	CASE NO. CV 91-6426 HLH(Tx)
15	INTERNATIONAL, a California Non-	)	NON-PARTIES' NOTICE OF
15	Profit Religious Organization,	)	COMPLIANCE RE DISCOVERY
16	Plaintiff,	)	
17	vs.	)	
18	STEVEN FISHMAN and UWE GEERTZ,	)	
19	Defendants.	)	

21 Non-parties David Miscavige, Norman F. Starkey, Mark Rathbun  
22 and Greg Wilhere submit this Notice of Compliance re Discovery  
23 and their annexed declarations, to bring to the Court's attention  
24 that their Court-ordered depositions in this case have not gone  
25 forward and that counsel for defendant Uwe Geertz refused to  
26 schedule those depositions unless these non-parties agreed to  
27 seek a continuance of the trial in this action. Without the  
28 ability to agree to any such term, these non-parties have been



1 stymied from appearing for their depositions, as shown by the  
2 following facts:

3 (1) Each of these non-parties was ordered to appear for  
4 deposition in this case by orders dated January 4, 1994, issued  
5 by the Magistrate Judge assigned herein.<sup>1</sup>

6 (2) As contemplated by the January 4, 1994 discovery  
7 orders, these and 20 other depositions were to be completed by  
8 January 28, eleven days prior to the then-February 8, 1994 trial  
9 date. Defendant Steven Fishman -- joined by Geertz -- later  
10 moved for and obtained a continuance of the trial date until  
11 March 1, 1994.

12 (3) On January 6, 1994, counsel for Geertz unilaterally  
13 noticed 23 of the 24 depositions ordered on January 4.  
14 Specifically, Geertz's counsel noticed Mr. Miscavige for January  
15 20, 21 and 24; Mr. Rathbun for January 17 and 18; and Mr. Starkey  
16 for January 13. [Drescher Dec., ¶ 3.] No date for Mr. Wilhere's  
17 deposition was scheduled by Geertz's counsel unilaterally or  
18 otherwise.

19 (4) Between January 10 and January 26, 1994, CSI produced  
20 witnesses for 12 deposition sessions, including some double-  
21 tracking, so that the motions for review filed by CSI, by these  
22 non-parties, and by five additional non-parties would not impede  
23 discovery. See, CSI's Notice of Compliance (concurrently filed).

---

24 <sup>1</sup> None of these non-parties was ever served with a  
25 subpoena. Messrs. Miscavige, Rathbun, and Wilhere were never  
26 present in California during the period in which defendant claims  
27 to have attempted personal service, and no sincere effort to  
28 serve Mr. Starkey was ever undertaken. [Declaration of David  
Miscavige, ¶ 12; Declaration of William T. Drescher, ¶ 4 & Ex. A  
(as to Rathbun) and ¶ 4 & Ex. B (as to Wilhere); Declaration of  
Norman F. Starkey, ¶ 9.]



1 During that period, Geertz also took the deposition of an  
2 additional non-party witness, Bent Corydon, pursuant to the  
3 Magistrate Judge's discovery orders. During that same period,  
4 despite having been informed that the non-parties were not  
5 available for the dates unilaterally set by him, Geertz's counsel  
6 purportedly took non-appearances of Messrs. Miscavige, Rathbun  
7 and Starkey, yet was unwilling to arrange alternative dates for  
8 the depositions.<sup>2</sup> [Drescher Dec., ¶ 4.]

9 (5) The Court affirmed the discovery orders on the merits  
10 on January 21, 1994. [Drescher Dec., ¶ 5 & Ex. C.] Meanwhile,  
11 the ongoing depositions of CSI's witnesses disintegrated as the  
12 depositions of CSI's president and one of its directors became  
13 forums for harassment and abusive treatment of the witnesses.<sup>3</sup>  
14 CSI's and Geertz's dispute continued through to January 31, 1994.

15 (6) At the January 31, 1994 pretrial conference, after  
16 Geertz's counsel made it known that the depositions contemplated  
17 by the January 4 order had not been completed, the Court made it  
18 quite clear that, despite the ongoing dispute between CSI and  
19  
20

---

21 <sup>2</sup> By way of example, Mr. Miscavige was in Washington,  
22 D.C. on one of the dates Geertz's counsel sought to impose on  
23 him, among other things, meeting with the head of Interpol, a  
24 meeting scheduled months in advance. [Miscavige Dec., ¶ 12.]  
25 Geertz's counsel never suggested any other particular day to take  
26 Mr. Miscavige's deposition. Similarly, Mr. Rathbun and Mr.  
27 Wilhere have been out of the United States continually since  
28 November 13, 1993 on a religious sabbatical. [Drescher Dec., ¶ 4  
& Exs. A & B.] Since the issuance of the Magistrate Judge's  
January 4, 1994 discovery orders, Geertz's counsel has never  
scheduled Mr. Wilhere, unilaterally or otherwise, and never  
suggested an alternate date for Mr. Rathbun.

<sup>3</sup> - See CSI's Notice of Compliance and the Declaration of  
Timothy Bowles, submitted therewith.



1 Geertz, those depositions were to go forward.<sup>4</sup>

2 (7) Accordingly, after not hearing from Geertz's counsel on  
3 February 1, 1994,<sup>5</sup> counsel for these non-parties wrote to  
4 Geertz's counsel on February 2, 1994 requesting possible dates  
5 for these depositions beginning the first day of the following  
6 week so that a schedule could be established. [Drescher Dec., ¶  
7 7 & Ex. E.] The response was a February 2, 1994 letter from  
8 Geertz's counsel in which he: (a) refused to take these  
9 depositions; (b) offered no dates when he would take these  
10 depositions; (c) refused to proceed with the depositions unless  
11 these non-parties moved to continue the trial for ten weeks and  
12 extend the discovery cutoff date by six weeks. [Drescher Dec., ¶  
13 8 & Ex. F.]

14 (8) Geertz's discovery had not been impeded. Depositions  
15 had proceeded virtually every business day and it was entirely  
16 Geertz's counsel's choice how long each witness was deposed.<sup>6</sup>  
17 Counsel for these non-parties also pointed out that: (a)  
18 scheduling the remaining depositions between February 4 and the  
19 March 1 trial date was no more onerous than Geertz's counsel's  
20 earlier unilateral schedule of depositions between January 11 and  
21 January 28 for a February 8 trial date; and (b) that, as non-  
22 parties, these witnesses had no ability to continue the trial

---

23 <sup>4</sup> The Court was quite clear. E.g., "I expect those  
24 people to be produced for their depositions"; "I expect their  
25 depositions to be taken." [Drescher Dec. ¶ 6 & Ex. D.]

26 <sup>5</sup> At the direction of the Court, counsel for CSI and  
27 Geertz were engaged in scheduling and holding a meet and confer  
to hammer out a pre-trial conference order on February 1 and 2.

28 <sup>6</sup> For example, Reverend Heber Jentsch's deposition  
extended for six sessions.



1 date even if they desired to do so. [Drescher Dec., ¶ 9 and Ex.  
2 G.]

3 (9) Meanwhile, Geertz's counsel -- while refusing to take  
4 or schedule dates for these depositions and demanding as a  
5 condition precedent to such scheduling that these non-parties  
6 move to continue the trial -- threatens these non-parties with  
7 contempt in letters that are strikingly strange (for instance,  
8 sending blind cc's to an "Operation Waterloo confidential  
9 distribution list" [Ex. I.]) and littered with derogatory  
10 references to Scientology terms such as "dev-t" and "CSWP."  
11 [Drescher Dec., ¶ 10 & Exs. H and I.]

12 (10) Finally, on Monday, February 7, 1994, these non-parties  
13 learned that instead of being "too busy" preparing for trial to  
14 take their depositions, as Mr. Berry claimed in his letters, Mr.  
15 Berry was actually appearing in another case defending a  
16 deposition of Robert Vaughn Young, the individual whose paid-for  
17 declarations and strategic direction are responsible for  
18 improperly involving these non-parties in this case in the first  
19 place. See, CSI's Notice of Compliance. It is plain that  
20 Geertz's counsel's disregard for the availability of these non-  
21 parties for dates he unilaterally set is entirely one-sided.  
22 There is no apparent reason for the unavailability of the other  
23 200 or so lawyers in his firm, including the four other lawyers  
24 who have been working on this case.

25 Accordingly, as it is clear that Geertz's counsel intends to  
26 use the lack of the depositions he refuses to schedule as a basis  
27 not only for contempt citations against these non-parties but  
28 also to engineer a discovery default of CSI, non-parties David



1 Miscavige and Norman Starkey submit the annexed declarations.  
2 These declarations substantiate the foregoing, state what the  
3 testimony of the witnesses would have been had Geertz's counsel  
4 permitted them to go forward with their depositions, and refute  
5 certain allegations made against them by Geertz's counsel and his  
6 purported experts as part of Geertz's litigation tactics  
7 herein.<sup>7</sup> Earlier declarations of Mark Rathbun and Greg Wilhere  
8 are submitted as exhibits to counsel's declaration to re-  
9 establish the fact that neither has set foot in the United States  
10 since November 13, 1993, weeks before any effort to depose them  
11 were undertaken.

12 Therefore, these non-parties submit this Notice and its  
13 accompanying declarations so they may comply with the Court's  
14 orders and wishes as fully as Geertz's counsel's conduct permits.

15 Dated: February 8, 1994

Respectfully submitted,

16

17

By:   
William T. Drescher

18

19

Attorney for Non-Party Witnesses  
DAVID MISCAVIGE, NORMAN STARKEY,  
MARK RATHBUN, AND GREG WILHERE

20

21

Michael Lee Hertzberg  
Attorney for Non-Party Witness  
DAVID MISCAVIGE

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23

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---

<sup>7</sup> Also attached are the declarations of attorneys Thomas C. Spring and William C. Walsh which address some of the matters set forth in the declarations of the deponents.







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2 23679 Calabasas Road, Suite 338  
3 Calabasas, California 91302  
4 (818) 591-0039

5 Michael Lee Hertzberg  
6 740 Broadway  
7 New York, New York 10003  
8 (212) 982-9870

9 Attorneys for Non-Party  
10 DAVID MISCAVIGE

11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

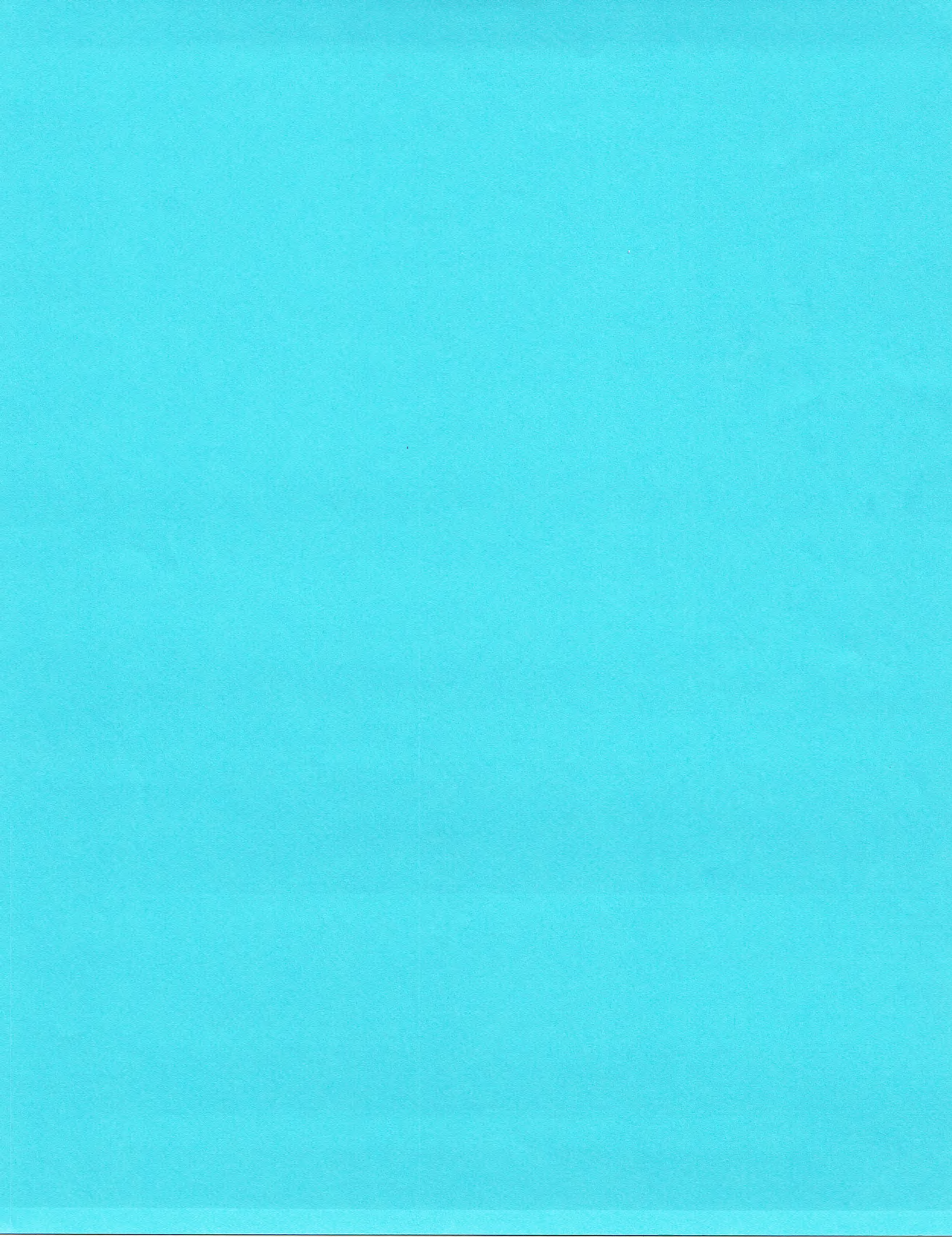
13 CHURCH-OF SCIENTOLOGY	)	CASE NO. CV 91-6426 HLH(Tx)
14 INTERNATIONAL, a California Non-	)	
15 Profit Religious Organization,	)	<u>DECLARATION OF DAVID</u>
16	)	<u>MISCAVIGE</u>
17	)	
18 Plaintiff,	)	
19	)	
20 vs.	)	
21	)	
22	)	
23 STEVEN FISHMAN and UWE GEERTZ,	)	
24	)	
25 Defendants.	)	

26 I, DAVID MISCAVIGE, declare and say:

27 1. I am over 18 years of age and a resident of the State  
28 of California. I have personal knowledge of the matters set  
forth in this declaration and, if called upon as a witness I  
could and would competently testify thereto.

2. I am not a party in the above-referenced case, nor am I







1 Andrew H. Wilson  
2 WILSON, RYAN & CAMPILONGO  
3 235 Montgomery Street  
4 Suite 450  
5 San Francisco, California 94104  
6 (415) 391-3900

RECEIVED

JUL 27 1994

HUB LAW OFFICES

7 Laurie J. Bartilson  
8 BOWLES & MOXON  
9 6255 Sunset Boulevard, Suite 2000  
10 Hollywood, CA 90028  
11 (213) 953-3360

12 Attorneys for Plaintiff and  
13 Cross-Defendant CHURCH OF SCIENTOLOGY  
14 INTERNATIONAL

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF LOS ANGELES

17 CHURCH OF SCIENTOLOGY )  
18 INTERNATIONAL, a California not- )  
19 for-profit religious corporation, )

20 Plaintiffs, )

21 vs. )

22 GERALD ARMSTRONG; THE GERALD )  
23 ARMSTRONG CORPORATION, a )  
24 California corporation; Does 1 - )  
25 25 INCLUSIVE, )

26 Defendants. )

27 AND RELATED CROSS-COMPLAINT )  
28

CASE NO. BC 052395

NOTICE OF NON-OPPOSITION TO  
APPLICATION FOR AN ORDER  
ADMITTING MICHAEL LEE  
HERTZBERG AS COUNSEL PRO  
HAC VICE

DATE: July 28, 1994  
TIME: 8:30 a.m.  
DEPARTMENT: 30

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Plaintiff Church of Scientology International, through its undersigned counsel, pursuant to Rule 983, California Rules of Court, has applied for the admission of Michael Lee Hertzberg, Esq. to appear pro hac vice in association with local counsel in the above-entitled action.

No opposition having been received to the application of Mr.



1 Hertzberg, Plaintiff hereby requests that Mr. Hertzberg be  
2 admitted to appear pro hac vice.

3 DATED: July 26, 1994

Respectfully submitted,

4 Andrew H. Wilson  
5 WILSON, RYAN & CAMPILONGO

6 BOWLES & MOXON

7 By:   
8 LAURIE J. BARTILSON

9 Attorneys for Plaintiff  
10 Church of Scientology  
11 International

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PROOF OF SERVICE

STATE OF CALIFORNIA        )  
                                  )    ss.  
COUNTY OF LOS ANGELES    )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On July 26, 1994, I served the foregoing document described as NOTICE OF NON-OPPOSITION TO APPLICATION FOR AN ORDER ADMITTING MICHAEL LEE HERTZBERG AS COUNSEL PRO HAC VICE on interested parties in this action

- [ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;
- [X] by placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

GERALD ARMSTRONG  
715 Sir Francis Drake Boulevard  
San Anselmo, CA 94960-1949

FORD GREENE  
HUB Law Offices  
711 Sir Francis Drake Boulevard  
San Anselmo, CA 94960-1949

**By FAX and U.S. Mail**

PAUL MORANTZ  
P.O. Box 511  
Pacific Palisades, CA 90272

[X] BY MAIL

- [ ] \*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.
- [X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence



for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on July 26, 1994 at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

---

Type or Print Name

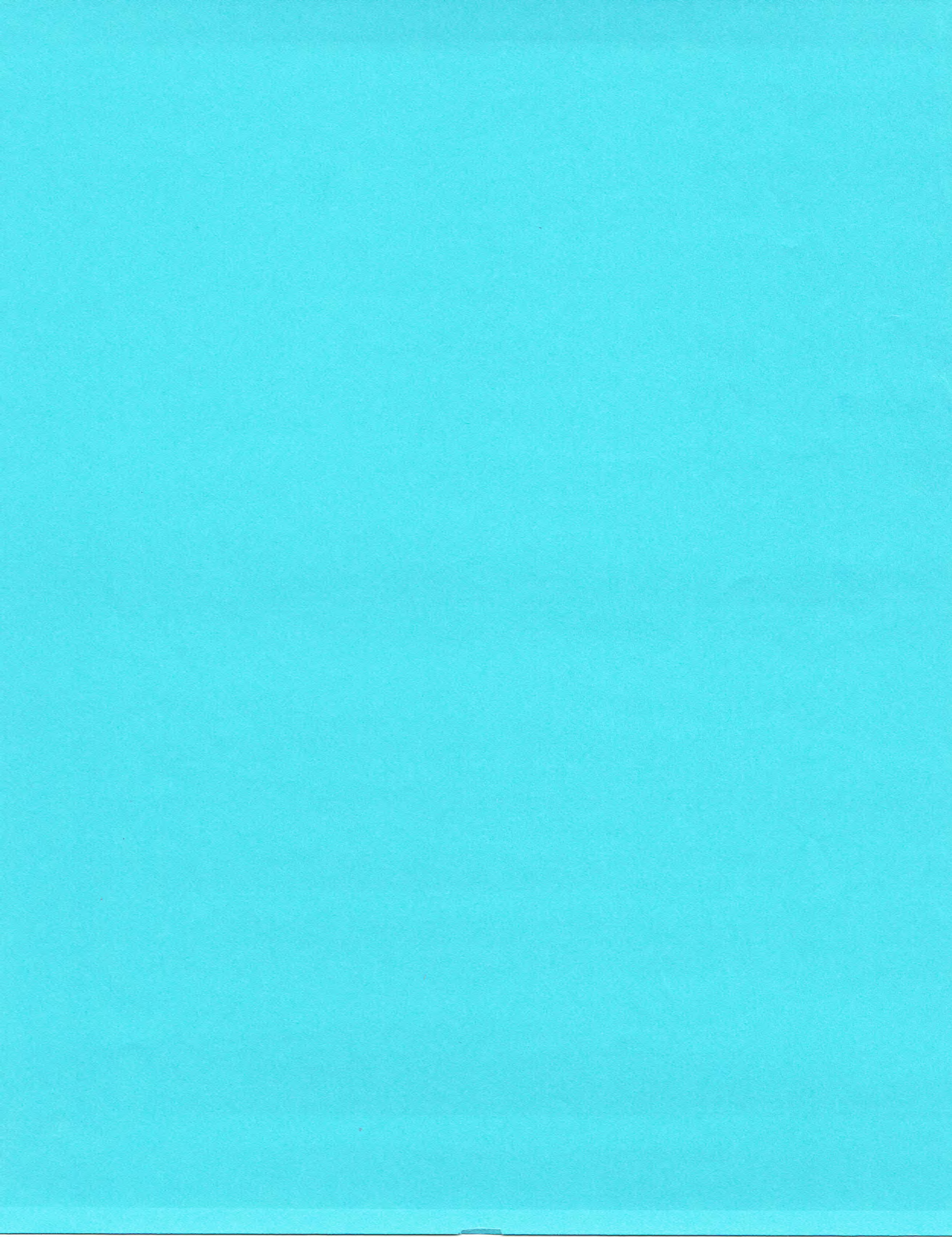
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Signature

\* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

\*\* (For personal service signature must be that of messenger)







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FEB 22 1994

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

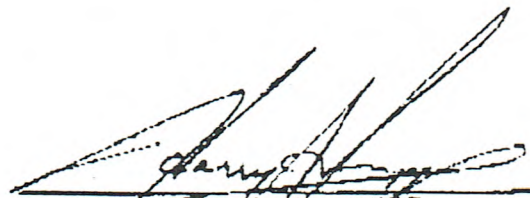
Church of Scientology / International  
Plaintiff,  
  
v.  
  
Steven Fishman, et al.  
  
Defendant.

No. CV 91-6426-MLH(Tx)  
ORDER DISMISSING ACTION  
WITH PREJUDICE

This action is dismissed with prejudice as to all defendants.  
The court reserves jurisdiction to award costs, fees, and sanctions.

This Order is a final judgment for purposes of Fed.R.Civ.P.  
54(a). It shall be entered pursuant to Fed.R.Civ.P. 58 and 79(a), and  
served upon the parties.

IT IS SO ORDERED.  
Date: Feb. 22, 1994.

  
HARRY L. HUPP  
United States District Judge



CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. CV 91-6426 HLII

Date 2/22/94

Title Church of Scientology International v. Fishman, et. al.

DOCKET ENTRY

PRESENT:

HON. HARRY L. BOPP, JUDGE

Milli Borgarding
Deputy Clerk

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

PROCEEDINGS: Dismissal of action with reservation of jurisdiction.

ORDER (also, if applicable, findings and memorandum opinion):

On motion of the plaintiff, this action is dismissed with prejudice. Order dismissing the action is signed and filed this date. The court retains jurisdiction to consider such matters as fees, costs, and sanctions, as well as any collateral procedural matters (such as the motion to seal or return transcripts on calendar for 2/28/94). The motion to dismiss is removed from the calendar for 2/28/94 and the pretrial conference date and trial date are vacated.

In response to the application for order shortening time, defendant Geertz indicated lack of opposition to the dismissal of the action, although he wanted to reserve claims of fees and costs. Thus, there is no need to wait until the day before trial and pretrial to dismiss the action, reserving all questions dealing with fees, costs, and the conduct of the action to a later time. Thus, the court dismisses the action effective this date.

Plaintiff, in its motion, appears to anticipate the question of fees and costs by preemptively arguing against their allowance in the motion to dismiss. This is putting the question upside down; no one knows what the claims will be at this time. With the court reserving such questions for the

Initials of Deputy Clerk



CV91-6426-MLH

2/22/94

Page Two

future, defendants should file their cost bill and make any motions for fees and sanctions. Rather than having the clerk review the cost bill in the first instance, the court directs the cost bill be filed in connection with a motion to allow costs set on this court's calendar and accompanied by any other request for relief whether by sanctions or otherwise. Set the matter on the calendar in the normal schedule, not by order shortening time. Such motions containing the cost bill and any other request for relief must be filed by March 9, 1994. At this time, the court determines that defendants are the prevailing parties.

A:916426.222